

Docket No.: END920000173US1

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In Re Patent Application of: Robyn R. Levine

Group Art Unit: 3622 : IBM Corporation  
Examiner: Yehega Retta : Intellectual Property Law  
Serial No.: 09/761,121 : Department IQ0A/040-3  
Filed: 01/16/2001 : 1701 North Street  
Title: BUSINESS OFFERING : Endicott, New York 13760  
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Georgia Y. Brubdege Date

Commissioner for Patents  
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**THIRD AMENDED APPEAL BRIEF**

Dear Sir:

Appellant hereby submits a second Amended Appeal Brief in response to the third Notification of Non-Compliant Appeal Brief of 12/01/2006 in the above-designated case. Appellant believes no additional fee is due. However, if one is due, the Director is authorized to charge Deposit Account 09-0457.

**(i) REAL PARTY IN INTEREST**

The real party in interest is International Business Machines Corporation, a corporation of New York, with a place of business at Armonk, NY 10504.

**(ii) RELATED APPEALS AND INTERFERENCES**

There are no related appeals or interferences with which the undersigned is aware.

**(iii) STATUS OF CLAIMS**

Claims 1 - 9, 12 - 18, and 20 - 23 are pending in the present application. Claims 1 - 9, 12 - 18, and 20 - 23 have all been finally rejected and are the subject matter of this appeal.

**(iv) STATUS OF AMENDMENTS**

An amendment after the Final Action of 11/16/2005 was filed 01/16/2006. The Examiner presents reasons why the amendment does not place the application in condition for allowance in an Advisory Action dated 02/06/2006. There is no indication of whether the amendment will or will not be entered for purposes of appeal.

**(v) SUMMARY OF CLAIMED SUBJECT MATTER**

Appellant's invention relates to a unique method, system,  
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and computer program product for personalizing content delivery to a user to increase the likelihood of completing a purchase or forming a positive experience.

According to Appellant's independent claim 1, a vision of a supplier's core competencies must be created based on three items (see appellant's specification page 14, lines 12 - 15). The three items are 1) in the moment point of contact constraints as determined in the first step of claim 1 (FIG. 1, step 12, and page 8, line 1 - page 10, line 8). 2) A profiled past of the user, including purchased data which is grouped or keyed to presenting a lifestyle or lifestage view of the user as retrieved in the second step of claim 1 (FIG. 1, step 14, and page 10, line 9 - page 12, line 16). 3) Current actions retrieved in step 3 of claim 1 (FIG. 1, step 16, and page 12, line 17 - page 13, line 7).

Claim 1 further requires that an opportunity be developed which is consistent with the vision. This opportunity must be developed by merging together and optimizing the created vision with the supplier's channel awareness (FIG. 1, step 18, and page 14, lines 12 - 22).

Independent claims 21 - 23 require identical limitations to those of claim 1 just described above.

According to Appellant's independent claim 21, a system for personalizing content delivered to a user (page 13, line 8, to page 14, line 22) must comprise three items (see appellant's specification page 14, lines 12 - 15). The three items are 1) a

point of contact device must be determined in the first clause of claim 21 (FIG. 1, step 12, and page 8, line 1 - page 10, line 8). 2) A profiled past of the user, including purchased data which is grouped or keyed to presenting a lifestyle or lifestage view of the user must be retrieved in the second clause of claim 21 (FIG. 1 step 14, and page 10, line 9 - page 12, line 16). 3) Current actions retrieved in clause 3 of claim 1 (FIG. 1 step 16, and page 12, line 17 - page 13, line 7).

Claim 21 further requires means for delivering an opportunity which is consistent with a vision of a supplier's core competencies. This opportunity must be developed by merging together and optimizing the created vision with the supplier's channel awareness (FIG. 1, step 18, and page 14 lines 12 - 22).

According to Appellant's independent claim 22, a server having a web site provides personalized content to a user (page 13, lines 16 - 17). A vision of a supplier's core competencies must be created based on three items (see appellant's specification page 14, lines 12 - 15). The three items are 1) point of contact device as determined in the second clause of claim 22 (FIG. 1, step 12, and page 8, line 1 - page 10, line 8). 2) A profiled past of the user, including purchased data which is grouped or keyed to presenting a lifestyle or lifestage view of the user as retrieved in the third clause of claim 22 (FIG. 1, step 14, and page 10, line 9 - page 12, line 16). 3) Current actions retrieved in clause 4 of claim 1 (FIG. 1, step 16, and page 12, line 17 - page 13, line 7).

Claim 22 further requires that an opportunity be developed which is consistent with the vision. This opportunity must be developed by merging together and optimizing the created vision with the supplier's channel awareness (FIG. 1, step 18, and page 14, lines 12 - 22).

According to Appellant's independent claim 23, a vision of a supplier's core competencies must be created based on three items (see appellant's specification page 14, lines 12 - 15). The three items are 1) a point of contact device as required in the preamble of claim 23 (FIG. 1, step 12, and page 8, line 1 - page 10, line 8). 2) A profiled past of the user, including purchased data which is grouped or keyed to presenting a lifestyle of lifestage view of the user as retrieved in the second clause of claim 23 (FIG. 1, step 14, and page 10, line 9 - page 12, line 16). 3) Current actions retrieved in clause 3 of claim 23 (FIG. 1, step 16, and page 12, line 17 - page 13, line 7).

Claim 23 further requires that an opportunity be developed which is consistent with the vision. This opportunity must be developed by merging together and optimizing the created vision with the supplier's channel awareness (FIG. 1, step 18, and page 14, lines 12 - 22).

Appellant's dependent claim 13 further requires that the profiled past of claim 1 include data generated by datamining of navigational and transactional information, or user submitted data, or purchased data, or combinations thereof (page 11, line 3 - page 12, line 16, and claim 13 as originally filed).  
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Appellant's dependent claim 17 further requires the current actions of claim 1, include clickstream data which must include page hits, sequence of hits, duration of page views, response to advertisements, transactions, and conversion rate of the opportunity (page 13, lines 1 - 7).

**(vi)  GROUNDS OF REJECTION**

There are two grounds of rejection.

Claims 1 - 3, 6, 9, 12 - 16, 18, and 20 - 23 are rejected under 35 U.S.C. 102(e) as being anticipated by Roberts (US Patent 6,101,486).

Claims 4, 5, 7, 8, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roberts in view of Lee (U.S. Patent 6,829,475).

**(vii)  ARGUMENT**

**FIRST GROUND OF REJECTION**

Claim 1 is patentable under 35 U.S.C. 102(e) over Roberts. The Examiner cites Roberts column 5, lines 25 - 40, as teaching step 1 of appellant's claim 1, e.g., determining in the moment point of contact constraints of the user. The Examiner then cites column 5, lines 4 - 25, and column 6, line 60, to column 7, line 16, as teaching the second and third steps of Appellant's claim 1, e.g. retrieving a profiled past of the user, including purchased data which is grouped or keyed to presenting a lifestyle or lifestage view of the user (second  
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step) and retrieving current actions (third step).

Roberts does not describe or suggest in the cited sections all of the limitations of the second step of Appellant's claim 1. Specifically, column 5, lines 4 - 25 describe collecting keyboard entries, mouse clicks, and voice commands to a microphone. Such collection may correspond to Appellant's first step (see page 8, lines 10 - 15). This collection may also correspond to Appellant's third step, current actions (see page 13, lines 1 - 5). Although Roberts describes this activity in column 5, line 3, as collecting customer profile information, it is clearly not a description of Appellant's second step of retrieving a profiled past of the user, including purchased data which is grouped or keyed to presenting a lifestyle or lifestage view of the user, despite the use of the word "profile" by Roberts.

Regarding column 6, line 60, to column 7, line 16, Roberts describes comparing his customer profile information, e.g., the same customer profile information which he describes as collecting in column 5, lines 4 - 25, and a product list, to marketing data in a company database. From this comparison, he identifies messages in the marketing database of potential interest to the customer. Several comparison examples are given. One example involves a customer who clicks rapidly through web pages; but, as noted above, such action corresponds to Appellant's third step of retrieving current actions (see page 13, line 3 - duration of page views) and not step 2 of retrieving a profiled past of the user, including purchased data which is grouped or keyed to presenting a lifestyle or lifestage

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view of the user. Indeed, there is no purchased data of any type described or suggested in the cited parts of Roberts. Claim 1 is therefore allowable over Roberts for this reason alone.

In addition, Appellant's claim 1 requires in the fourth step, a vision of a supplier's core competencies be created based on the constraints, profiled past, and current actions recited in the first three steps. Roberts is incapable of creating such a vision because as stated above, Roberts does not describe all of the requirements of the second step on which the vision must be based. Furthermore, an opportunity must be developed consistent with this vision which Roberts is incapable of creating. The opportunity must be developed by merging together and optimizing this vision with this same supplier's channel awareness. Roberts does not describe anywhere in the cited columns 5 - 7, developing this opportunity in this way. Claim 1 is therefore also allowable over Roberts for these reasons.

Appellant's remaining independent claims 21 - 23 recite identical limitations to those of claim 1 and are allowable over Roberts for the same reasons. All of the remaining rejected claims 2 - 3, 6, 9, 12 - 16, 18, and 20 depend directly or indirectly on allowable claim 1 and are therefore also allowable over Roberts.

In addition, Appellant's claim 13 requires the profiled past of the second step of claim 1, include determining of navigational and transactional information, or user submitted  
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data, or purchased data, or combinations thereof. Roberts column 5, line 65, to column 6, line 13, is cited. However, the cited section of Roberts merely describes a customer service representative (CSR), e.g., a person having a telephone interaction with the customer, using a questionnaire or survey to gather information. The customer may also fill in this information when visiting a web site. There is no description of datamining as this term is used in the art, anywhere in the cited portion of Roberts. Hence, Appellant's claim 13 is also allowable over Roberts for this reason.

**SECOND GROUND OF REJECTION**

Regarding the second ground for rejection of claim 4, 5, 7, 8, and 17 under 35 U.S.C. 103(a), this rejection is moot because all of these claims depend directly or indirectly on allowable claim 1 and are therefore also allowable.

Rejection of the pending claims is therefore in error and such rejections must be withdrawn. All of the pending claims are allowable.

In view of the above, Appellant respectfully requests that the Board reverse the Examiner's final rejection of all of the claims on appeal, and allow these claims.

Respectfully submitted,

Dated: 12/18/06

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**(viii) CLAIMS INDEX**

1. A method of personalizing content delivery to a user, said method comprising the steps of:

determining in the moment point of contact constraints of said user;

retrieving a profiled past of said user including purchased data which is grouped or keyed to presenting a lifestyle or lifestage view of said user;

retrieving current actions; and

delivering an opportunity to said user by creating a vision of a supplier's core competencies based on said constraints of said point of contact, said profiled past and said current actions, and developing said opportunity consistent with said vision by merging together and optimizing said vision with said supplier's channel awareness.

2. The method of claim 1, wherein said step of determining in the moment point of contact comprises the step of determining constraints of a current fingertip touchpoint of said user.

3. The method of claim 2, wherein said touchpoint comprises a cell phone, kiosk, personal digital assistant device, laptop computer, terminal, or desktop computer.

4. The method of claim 1, wherein said point of contact constraints includes a location indication.
5. The method of claim 4, wherein said location indication includes global positioning system coordinates.
6. The method of claim 1, wherein said profiled past includes a demographic profile.
7. The method of claim 6, wherein said demographic profile is assumed.
8. The method of claim 7, wherein said demographic profile is assumed based on anonymous demographic data supplied by a third party.
9. The method of claim 6, wherein said demographic profile is layered.
10. (cancelled).
11. (cancelled).
12. The method of claim 1, wherein said baseline parameter is a block or group.
13. The method of claim 1, wherein said profiled past includes data generated by datamining of navigational and transactional information, or user submitted data, or purchased data, or combinations thereof.

14. The method of claim 1, wherein said current actions includes transactions.
15. The method of claim 14, wherein said transactions includes listings of purchases or payments or returns.
16. The method of claim 1, wherein said current actions includes clickstream data.
17. The method of claim 16, wherein said clickstream data includes page hits, sequence of hits, duration of page views, response to advertisements, transactions, and conversion rate of said opportunity.
18. The method of claim 1, wherein the step of said delivering said content comprises the step of sending a personalized web page to said user.
19. (cancelled)
20. The method of claim 1, wherein said content is delivered by converting said point of contact constraints into a take action opportunity.
21. A system for personalizing content delivered to a user, comprising:  
means for determining a point of contact device of said user;

means for retrieving a profiled past of said user including purchased data which is grouped or keyed to presenting a lifestyle or lifestage view of said user;

means for retrieving current actions; and

means for delivering an opportunity to said user by creating a vision of a supplier's core competencies based on said point of contact device and said profiled past and said current actions, and developing said opportunity consistent with said vision by merging together and optimizing said vision with said supplier's channel awareness.

22. A server having a web site for providing personalized content to a user, comprising:

a computer processor having server software installed for processing a web site having content;

means for determining a point of contact device of said user;

means for retrieving a profiled past of said user including purchased data which is grouped or keyed to presenting a lifestyle or lifestage view of said user;

means for retrieving current actions; and

wherein said server software is adapted for delivering said web site content personalized to said user as an opportunity by creating a vision of a supplier's core competencies based on  
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said point of contact device and said profiled past and said current actions, and developing said opportunity consistent with said vision by merging together and optimizing said vision with said supplier's channel awareness.

23. A computer program product for instructing a processor to provide a web site accessible by a user having a point of contact device, said computer program product comprising:

means for determining said point of contact device of said user;

means for retrieving a profiled past of said user including purchased data which is grouped or keyed to presenting a lifestyle or lifestage view of said user;

means for retrieving current actions; and

wherein said computer program product is adapted for delivering web site content personalized to said user as an opportunity by creating a vision of a supplier's core competencies based on said point of contact device and said profiled past and said current actions, and developing said opportunity consistent with said vision by merging together and optimizing said vision with said supplier's channel awareness.

**(ix) EVIDENCE APPENDIX**

None.

**(x) RELATED PROCEEDINGS APPENDIX**

None.